The Cochin Co-operative Land Mortgage Bank.

Mr. K. Narayana Menon.– I beg to move that the Cochin Co-operative Land Mortgage Bill be taken up and finally passed.

Rao Bahadur C. Gopala Menon.—I beg to support the motion before the House. I understand that the practice in this House is not to make any speech at the third reading of the Bill. I am glad to see that the Bill has received the blessings of this House, and I shall not take up the time of the House with any further speech on the subject.

Motion put and carried.

The Cochin Criminal Law Amendment Bill.

Mr. Thomas Manjuran.—I beg to present the Select Committee Report on the Cochin Criminal Law Amendment Bill and move that the Bill be taken into consideration. In doing so, I wish to say a few words.

The only provisions sought to be introduced by this amendment relate to criminal conspiracy. Such provisions do not exist now in our Penal Code, although similar provisions have been in existence in the corresponding British Indian Code for several decades past. Under the existing Penal Code the only conspiracy that is made an offence as such is one to wage war against the State. But it was found in practice that with the introduction of the Trade Union and other laws in Cochin some sort of legislation to control possible conspiracies with regard to workmen and others should be introduced. For instance, it was found that just a few handful of influential, misguided workmen disposed to bring trouble among workmen in mills could easily bring about a deadlock by preaching false or intimidating matter with a view to prevent the workmen from doing work. That sort of thing is likely to become intolerable and it was noticed that there should be some sort of restriction with regard to possible mischief that way. Similarly with regard to general society also. It was felt that in the absence of provisions relating to conspiracy, serious difficulties may be felt in administering criminal law. For instance it was felt that even if the Government became aware that there was a conspiracy for murder or arson Government officers could not take any action whatsoever before the perpetration of the deeds themselves. This is evidently quite an unsatisfactory state of affairs from the point of view of public safety. It is in consideration of

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these facts that the situation was met in British India by introducing provisions relating to conspiracy similar to these that existed in England. But while introducing the English Law in British India the British Indian Legislature did it in a somewhat modified form. Whereas in England the Law of conspiracy exists in a much more extended form, the British Indian law is more restricted in scope. That law was introduced in British India several decades ago and Government consider that it is necessary that that law should be introduced here also. Let me bring to the attention of the House the law that exists in England on the question of conspiracy. This law will be found explained in the 9th volume of Halsbury's Laws of England at p. 260. "If two or more persons agree together to do something contrary to laws, or wrongful and harmful towards another person, or to use unlawful means in the carrying out of an object not otherwise unlawful, the persons who so agree commit the crime of conspiracy. So long as the design to do such an act rests in intention only it is not criminal, but as soon as two or more agree to carry it into effect, then their act becomes punishable.

The gist of the offence lies in the bare engagement and association to do an unlawful thing (i.e. a thing contrary to or forbidden by law,) whether such thing be criminal or not, and whether any act other than the engagement or association be done by the conspirators or not. These are the things that are attempted to be prevented by the law of conspiracy.

Section 120 (a) of the Indian Penal Code enacts the conspiracy law. It reads thus:—"When two or more persons agree to do, or cause to be done—(1) an illegal act, or (2) an act which is not illegal by illegal means such an agreement is designated a criminal conspiracy: Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof". Such a qualification exists under the English Law. The statement of objects and reasons among others contain the following passage. "Experience shows that dangerous conspiracies are entered into in India.....In all other cases the punishment contemplated is imprisonment of either description for a term etc."

Why I make this statement is because several Hon'ble Members happened to tell me that they felt some apprehension about this Bill. One Hon'ble Member was saying that this Bill is of a very far-reaching nature and could easily be abused. Another Hon'ble Member was saying that if you pass this Bill

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it would merely make even thinking an offence. I do not think there is any reason for such a misapprehension. This law has been in existence for a long time in British India, and no horrors have been committed there. Hon'ble members should not consider this bill from an exaggerated or twisted angle. Plenty of penal law exists now if the police desire to victimise people. There are 500 sections in the Penal Code.

Mr. P. Govinda Menon.—Why should we not be content with that?

Mr. Thomas Manjuran.—For the obvious reason that it is not found adequate. The Penal Code contains provision for punishing people who commit arson, dacoity and other crimes. All those serious offences have existed and to this day it is not stated that the mere fact that those provisions are contained in the Penal Code has been a matter of complaint from anybody other than criminals. Hon'ble Members will note that the bill is a highly necessary one. If we introduce such a law there is absolutely no reason for worry or dismay. Suppose a Police Inspector in charge of a station becomes aware that a company of Kabulis who have come down to Ernakulam is preparing to commit dacoity in a house. What are they to do? Supposing they hear from spies that on a particular day, a dacoity will be committed in a house would the Hon'ble Members desire that the Police should stand by and see that the dacoity is being committed.

Mr. A. Eachara Menon.—They should see that it is not committed.

Mr. Thomas Manjuran.—Suppose it is not committed in one particular place. The Criminals may have an alternative conspiracy. You will say that they should see that it is not committed there also. The Bill is only for the protection of the public. The Government do not derive any benefit. It is for the protection of well ordered society. Of course there is always the complaint that law is an inroad on human liberties. But Hon'ble Members will always remember that modern society can never exist without such inroads into human liberties. When would modern democracy be without laws?

Mr. K. M. Kunhi Moideen.—There is no democracy here.

Mr. Thomas Manjuran.—Hon'ble Members should not be under the impression that anybody is insidiously introducing measures to aggrandise himself or arm himself with additional powers of prosecution. That is not the idea.

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Mr. P. Govinda Menon.—Have you experienced any difficulty till now for want of this provision?

Mr. Thomas Manjuran.—Government have experienced this difficulty. Government felt that if they are not armed with a weapon for any situation that might arise, it is quite possible that a situation when it arises could not be dealt with. In a highly civilized country like England, whose laws and legal institutions are the envy and the pride of the whole world, whose institutions are being copied with great success by others, if this provision existed without challenge for centuries why should Hon'ble Members think that this provision, if introduced in Cochin, would do any havoc?

Mr. K. M. Kunhi Moideen.—We are suspicious of the executive.

Mr. Thomas Manjuran.—Hon'ble Members, let us not be carried away by imaginary difficulties. Let us understand that the bill introduces a provision for safeguarding the interests of society. Such law exists in our sister State of Travancore. It has existed for several decades in British India. It is not because this law is in existence in these places that we should have such a law. The absence of it is likely to be felt at any moment. There is no guarantee that such a situation will not arise. Then we have on the tapis the Trade Unions Bill. Under that Bill the Trade Unions are given very elaborate powers but subject to this one restriction that workmen should not form communal conspiracies. It is obvious that in the absence of such a provision work in factories and other places of employment can be brought to a stand-still. That sort of conspiracy does not cover honest reasonable persuasion. It is highly necessary both in view of the Trade Union Bill as well as in the interests of general safety that such a measure should be introduced. In these circumstances I hope Hon'ble Members will, without any hesitation, vote for this measure which should have been on the Statute Book long ago.

K. M. Kunhi Moideen.—Are the Trade Unions exempt from the operation of this rule in British India?

Mr. Thomas Manjuran.—No, certainly not.

* **Mr. E. Ikkanda Warriar.**—I rise to oppose this Bill. No-body would deny that it is a very mischievous Bill capable of doing ever so many mischiefs and the portions read out from

* Speech not corrected by the Hon'ble Member.

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the English Law by the Hon'ble mover will make clear the mischief it is capable of doing. Apart from that let us consider the reasons advanced by the Government for enacting a law like this here. The first reason is that a democratic country like England has got it, British India has got it, why not we also have it? That is the only ground. In spite of repeated interruptions from this side of the House asking the Hon'ble Member to give us a specific case, a situation which has arisen in this country for enacting such a strong measure, the Hon'ble Member was able simply to say that the absence of it is likely to be felt, and Government may find it difficult to carry on the administration in future. Sir, I would respectfully submit that the conditions that existed in England when the law was introduced are not present in India. Not only that. England is governed by a responsible Government. It is governed by the people and they have all the guarantees of a popular Government and they know that whenever they enact a law in their Statute Book, their representatives alone are the people who are to administer it. We have not got that guarantee in our State. Sir, in British India, the main reasons probably for introducing this law is the terrorist activities and revolutionary movements and other reasons. In a continent like British India it would have been found necessary. I ask what is there to compare with our State, a law-abiding State, I would even say, a State which has always been too submissive to the orders of the Government to that of British India. My submission is that those conditions that were present in British India which necessitated the enactment of a law like this is not present in the Cochin State. Sir, has not also the Government Member noted the fact that a great agitation is being carried on in British India to repeal these laws?

Mr. Thomas Manjuran.—When?

Mr. E. Ikkanda Warriar.—Even in the last assembly. All the repressive laws that were enacted in recent years which will include this also or laws similar to this are sought to be repealed. You can at least understand the way in which the people in British India are looking at this. Then the only ground which the Hon'ble Member said was the necessity for the Bill may probably be the introduction of the Trade Union Bill. I submit that that was not the ground either in England or in British India for the enactment of a measure like this. The Conspiracy act was introduced long long after the Trade Unions Act and the reason for enacting such a measure was not also on account of any trouble caused by the working of

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the Trade Unions Act. For these and other reasons, I very strongly oppose this Bill.

Mr. A. V. Moothedan.—Sir, I beg to oppose this motion. I am sorry I have to oppose this motion especially because the mover of the Bill is my senior at the Bar.

Coming to the Bill I should say that my first objection is there is no necessity for such a bill now. In the Statement of objects and reasons of the Criminal Law amendment act of 1913 there is one clause at page 44 of the Government of India Gazette of 1913. That is "experience has shown that dangerous conspiracies are entered into in India". When they enacted this law in British India there was experience to show that this was necessary. But our position is different. In answer to a question from this side, the Hon'ble the Government Advocate has stated, that occasions might arise when the necessity for a criminal conspiracy Regulation may be felt. Prima facie there is no necessity for such legislation here at present.

The second point is, the conditions in British India and England are different from those obtained here. In England there is a responsible Government. There the Executive is responsible to the Legislature. We know that Sir Samuel Hoare by sheer public opinion had to resign his seat in the Cabinet. There was no vote of censure against him in the Parliament. But here we have no public opinion and no responsible Government. We may pass resolutions. We may pass no-confidence motions against the Government. We may walk out. But the Government will go on. Our Government is not responsible to the Legislature. That being so, it is dangerous to entrust the irresponsible executive with such a powerful weapon as this conspiracy law. Therefore, I would strongly oppose this measure.

Again, there is another point. The consequences of this measure are far reaching. We have given an illustration in our dissenting minute prepared by Mr. C. R. Iyyunni and myself. If two people come to an agreement to write a defamatory article it is an offence. They need not write a word about it. The mere agreement is enough to constitute this offence. If the Editor of "Keralan" and the Editor of "Gomathi" agree to write an article against the Editor of "Sahodaran" it is an offence. They need not do anything further than the agreement. That there is no exaggeration in this illustration will be clear from the following passage from an English decision. Brett J. A. in R. V. Aspinal observed as follows:—

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"The crime of conspiracy is completely committed, if it is committed at all, the moment two or more have agreed they will do, at once or at some future time, certain things; it is not necessary in order to complete the offence that any one thing should be done beyond the agreement; the conspirators may repent and stop or may have an opportunity or may be prevented or may fail; nevertheless the crime is complete, it was complete when they agreed".

Are not these provisions very far-reaching? For these reasons I am constrained to oppose this measure.

* മിസ്റ്റർ കെ. ഫ്രാൻസ്സ്. പണിക്കർ.— സർ, ഞാൻ ഈ അമെൻറുമെൻറിനെ എതിർക്കുന്നു. ഈ ബില്ല് സെലക്ട് കമ്മറിയിൽ വന്നപ്പോൾ അവിടെവച്ചുതന്നെ തള്ളിക്കളയേണ്ടതാണ്. ഞാൻ വരാൻ ഒരു മിനിട്ട താമസം വന്നതുകൊണ്ടു തള്ളിക്കളയാൻ സാധിച്ചില്ല. അതുകൊണ്ടുള്ള വ്യസനം ചില്ലറയല്ല. എന്നാൽ വളരെ നിയമങ്ങൾ അടുത്ത കാലമായിട്ട നമ്മുടെ കൊച്ചീരാജ്യത്തു അവതരിപ്പിച്ചുകൊണ്ടിരിക്കുന്നു. നമ്മുടെ വരവു മുഴുവൻ ഈ നിയമനിർമ്മാണത്തിനു ചിലവാക്കേണ്ട പുട്ടമായിട്ടാണ് കാണുന്നതു്. ബ്രിട്ടീഷിൻഡ്യയിലെ നിയമങ്ങളെ അങ്ങിനെതന്നെ ഇവിടേയും പകർത്തുന്നു. ഇതിൻറെ അർത്ഥമെന്താണ്. ബ്രിട്ടീഷിൻഡ്യയിലെ ജനപ്പെരുപ്പവും വരവും നമ്മുടെ കൊച്ചിയോടു താരതമ്യപ്പെടുത്തുമ്പോൾ ഇവിടെ ജനസംഖ്യ അധികമുള്ളതായിട്ടാണ് കാണുന്നതു്. ആരെങ്കിലും എന്തെങ്കിലും മിണ്ടിയാൽ ഗവർമ്മെൻറുദ്യോഗസ്ഥന്മാർ കുറിച്ചെടുക്കുകയായി. അങ്ങിനെ പറയുന്നതെല്ലാം ഗവർമ്മെറുദ്യോഗസ്ഥന്മാരുടെ അടുക്കൽ ചെല്ലുന്നതാണ്. ഗ്രേറുവാർ നടന്നപ്പോൾ അവിടെ നടപ്പുണ്ടായിരുന്ന ഫൈറ്റ് സിസ്റ്റത്തേക്കാൾ ക്രൂരതലാണ് ഇവിടെയുള്ളതു്. അങ്ങിനെയുള്ള നിയമങ്ങളെക്കൊണ്ടു് ഈ രാജ്യത്തുള്ള ജനങ്ങളെ കെട്ടിയിടണമെന്നു വിചാരിക്കുന്നതു് വലിയ കഷ്ടമാണ്. മേൽവാഴ്ചയെപ്പോലെതന്നെ കീഴ്വാഴ്ചയും നടന്നുവരുന്ന കൊച്ചിയിലെ ജനങ്ങൾ മഹാരാജാവു തിരുമനസ്സിനോടും അവിടത്തെ ഗവർമ്മെൻറിനോടും ബ്രിട്ടീഷ് ചക്രവർത്തിയോടും വളരെ ഭയഭക്തിയോടുകൂടിയാണ് പെരുമാറിവരുന്നതു്. അങ്ങിനെയുള്ള ഞങ്ങളെ ഇത്തരം നിയമങ്ങളുണ്ടാക്കി ബന്ധിച്ചിടണമെന്നു പറയുന്നതു് വളരെ കഷ്ടമാണ്. ഇങ്ങിനെ ഗവർമ്മെൻറിനെ പ്രേരിപ്പിക്കുന്ന സംഗതിയെന്താണെന്നു എനിക്കു മനസ്സിലാകുന്നില്ല. രാജദ്രോഹികൾ ഉണ്ടോ എന്നന്വേഷിച്ചപ്പോൾ ആരുമില്ലെന്നാണ് ഞാൻ മനസ്സിലാക്കുന്നതു്. രാജ്യദ്രോഹികളും ഇവിടെ ഇല്ല. ആരെങ്കിലും എന്തെങ്കിലും സംസാരിച്ചാൽ അവരെ പിടിച്ചു ജയിലിലടയ്ക്കുന്നു. ഇങ്ങിനെ ഗവർമ്മെൻറു ജനങ്ങളെ ഭയപ്പെടുത്തുന്നു. പരിഷ്കൃത ഗവർമ്മെ

* Speech not corrected by the Hon'ble Member.

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ൻറുകയം ജനങ്ങളെ സ്നേഹിച്ച് അടുപ്പിക്കുമ്പോൾ നമ്മുടെ ഗവമ്മെൻറു ഭയപ്പെടുത്തി അകററാൻ നോക്കുകയാണു്. (ഹിയർ, ഹിയർ) കാൺസ്പിറസി ഇവിടെ ഉണ്ടായാൽ അവരെ ശിക്ഷിക്കാൻ ഇപ്പോ ൾ ഇവിടെ നിലവിലുള്ള നിയമങ്ങൾതന്നെ ധാരാളം മതിയാകും. പിന്നെ ഇത്തരത്തിലുള്ള നിയമങ്ങൾ ക്രൂടിയായാൽ വലിയ കുഴപ്പമായി രിക്കും. ഇത്തരത്തിലുള്ള പല ബില്ലുകളും കടലാസുകളും ധാരാളമായി വന്നുകൊണ്ടിരിക്കുന്നു. അതു നോക്കാൻതന്നെ സമയമില്ലാതെയാണിരി ക്കുന്നതു്. ഞങ്ങൾ എന്തു കുററം ചെയ്തു, മിണ്ടിപ്പോയാൽ കൊല്ലുമെ ന്നു പറയുന്ന നിയമങ്ങൾ കൊണ്ടുവന്നു ഞങ്ങളെ ബുദ്ധിമുട്ടിക്കരുതു് എന്നു ഗവമ്മെൻറിനോടു താഴ്മയായി പറയുന്നു. ഇപ്പോഴത്തെ ഉ ദ്യോഗസ്ഥമെമ്പർമാർ അനുദ്യോഗസ്ഥമെമ്പർമാരായിരിക്കുമ്പോഴാണു് ഈ ബിൽ വന്നതെങ്കിൽ, ഇതുമുഴുവൻ തകുത്തുകളയുമായിരുന്നു. ഇ ങ്ങിനെയുള്ള ഒരു ബിൽ ഉദ്യോഗസ്ഥസ്ഥാനത്തുനിന്നു റദ്ദ് ചെയ്തു ഞ ങ്ങളെ രക്ഷിക്കണമെന്നാണു് ഞാൻ പറയുന്നതു്. മേലാലെങ്കിലും ഗ വമ്മെൻറു ഞങ്ങളെ നല്ലവഴിക്കു കൊണ്ടുപോകണമെന്നു പറഞ്ഞുകൊ ണ്ടു് ഞാൻ ഈ ബില്ലിനെ എതിർക്കുന്നു.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.— സർ, ഞാൻ ഈ ബില്ലിനെ എതിർക്കു ന്നു. ഈവക നിയമങ്ങൾ പറയുന്ന ഉദ്ദേശങ്ങൾക്കല്ല എവിടേയും ഉ പയോഗപ്പെടുത്തുന്നതു്. അധികാരത്തിലിരിക്കുന്നവരുടെ തെറുക ളെ എതിർക്കുന്ന സ്വതന്ത്രരെ അടക്കുവാനായിരിക്കും ഈവക നിയമങ്ങൾ മിക്കപ്പോഴും ഉപയോഗപ്പെടുത്തുന്നതു്. കൊച്ചിയിൽ ഒരു കാ ൺസ്പിരസിയും ഇതുവരെ ഉണ്ടായിട്ടില്ല. അടുത്തെങ്ങും ഉണ്ടാകുന്ന ല ക്ഷണവും ഇല്ല. പിന്നെ എന്തിനാണു് ഈ നിയമം ഇവിടെ പാസ്സാ ക്കുന്നതെന്നു മനസ്സിലാകുന്നില്ല. ഈ നിയമം പാസ്സാക്കിയാൽ കൊ ച്ചിയിൽ കാൺസ്പിരസികൾ വർദ്ധിച്ചിരിക്കുന്നു എന്നാണു് പുറത്തുള്ള വർ ധരിക്കുക. അതുകൊണ്ടു ഈ ബിൽ വാസ്തവത്തിൽ കൊച്ചിയുടെ അപമാനകരമായിട്ടുള്ളതാണു്. ബ്രിട്ടീഷിൻഡ്യയിൽ ഈവക നിയമ ങ്ങൾക്കു പക്ഷെ ആവശ്യമുണ്ടായിരിക്കും. ഒരു വിദേശ ഗവമ്മെൻറായ തുകൊണ്ടു് അതിനോടു എതിർക്കുന്നവർ ഉണ്ടായേക്കാം. അങ്ങിനെയു ള്ള സ്ഥിതി ഒന്നും ഇവിടെ ഇല്ല.

Mr. M. Sivarama Menon.—Mr. President, Sir, I am constrained to oppose this Bill regard being had to the present enviable condition of society in Cochin. There is already section 129 of the Penal Code which deals with five or more persons who enter into a conspiracy to commit an offence and that is generally know by the term 'Unlawful Assembly'. Therefore, if five persons or more now conspire to commit an offence it would be punishable under Section 129 of the Penal Code. This Bill is intended to apply to persons who number from two

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to four because one person by himself cannot enter into an agreement. Regard being had to the general principles of criminal jurisprudence, there are four stages before an offence can be said to be complete. The first is the innate conceiving of the idea to commit an offence in one's own mind and that stage is what is called 'intention'. A in his own mind thinks that he must commit an offence without even whispering a single syllable to anybody. That stage is called intention and this mental volition is nowhere punishable. Under no penal law can a person be punished for intending to commit an offence.

The next stage is when that intention may be sought to be translated into a state of preparation. After conceiving the idea to commit an offence he must make certain preparations for committing that offence. Even that preparation is not considered to be an offence so far as all the sections of the Penal Code are concerned. But when a man prepares to wage war against the King, certainly the criminal law reaches him. The legislators have taken care to see that if preparations are made to commit offences against the Government which would tend to undermine or subvert its very existence then that preparation is considered to be an offence. But with regard to most other offences the legislature did not consider the stage of preparation to be very serious. Even a preparation to commit an offence of murder is not an offence under any of the existing laws, not only here, but everywhere. For instance, I will give an example. Suppose a person with intent to murder 'A' purchases a sharp weapon and not fully satisfied with its sharpness resharpens it, saying "This is to kill A". Even that man cannot be got at by the criminal law in spite of his proclamation, because it is only the stage of preparation. He may abandon the idea at any moment. Intention to kill a man is not considered to be dangerous to society. But if the man prepares to wage war against the King certainly he can be got at. The existence of the Government is necessary for the safety of society. That is the exceptional reason why preparation to wage war against the Government is considered to be an offence under the Penal Code.

The third stage is what is known in criminal law as 'attempt'. Under the Penal Code every attempt to commit an offence is penal. Suppose the man who intends to kill 'A' runs down the public road with the sharp weapon in his hand and on meeting him attempts to murder him. That man can be convicted. Attempt is even now punishable under the Penal Code.

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The fourth stage is the actual commission of the offence itself. Ciriminal law always exempts the worst criminal intention from punishment. One may harbour with impunity the intention of committing the blackest offence in the world. This Bill seeks to penalise the resolution of two to four persons to commit an offence. Their intention let known mutually and approved by an agreement between them forms an offence under this amending Bill. According to my humble view, this law is justifiable only in a state of society where terrorist movements, revolutionary propaganda and rank political conspiracies to commit offences day in and day out are rampant and I think it will be a great insult to the society of Cochin to say that the want of such a law as the one that is now before the House has in any way prejudiced those persons in authority who are responsible for the administration of law and order. You will find, as a matter of fact, even in cases of conspiracy of five persons or more courts have gone to the extent of saying that in order to enable the Court to believe the evidence of witnesses, overtacts are considered to be desirable to determine whether as a matter of fact that gentleman, whether he be 'A' or 'B', who is alleged to be a member of that unlawful assembly was really a guilty associate. That is a test laid down by Courts of Law. The Bill now before this Hon'ble House divests the necessity for any overt act. A mere agreement to commit an offence without anything more is penalised by this Bill. Are we living in such a dangerously criminal society that for our protection the very conception of the idea to commit offences should be nipped in the bud? Bombs are unknown to Cochin and its people. Political offences are very very few. That being so, if the Executive is armed with power to bring forward a charge of conspiracy against any two individuals on the strength of oral evidence alone, the plight in Cochin will be pitiable, because enough of any kind of oral evidence, we get in Cochin. I don't mean any disparagement to any one. I am also a born Cochinite and with all the courage and conviction I am capable of. I assert that perjury is rampant in Cochin. The Hon'ble Law Member is speaking of England. You find a gulf of difference between the nature of oral testimony in England and in Cochin. Now, you will find if you ransack criminal cases alone what rank perjury some of our own country-men have indulged in to send a man to the gallows and how many have attempted to screen the guilty by swearing to coloured versions. Without any conscience, without any self-respect and regard for truth they have gone to despicable lengths. In a State where perjury is really abundant, if the Executive is armed with

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powers of making a mere alleged conspiracy an offence I think that it will be putting a premium on perjury. How many really guilty men have confessed their crimes in this State? Except in the case of those who court the jail as a means of livelihood, the number of confessions is indeed very few. It will be time for Government to bring up such laws only when extraordinary situations arise in Cochin. The executive need not portend a revolution and then arm itself with drastic powers to combat a dreamy effervescence of criminal conspiracies. I do not think for a moment that any of the Hon'ble Members on this side of the House will ever say that Government should not be armed with such a law if and when the evil day dawns in Cochin. When we have peace and contentment reigning over this land, when we see that even cases of unlawful assembly to commit ordinary crimes charge-sheeted by the Police are negligible, where is the necessity for bringing forward a measure of this kind? Cochin society considers that it is not threatened with criminal conspiracies. There has been no case of any political conspiracy in Cochin detected by Government. I think, therefore, that in the past and present state of society in Cochin this piece of legislation is quite uncalled for and I am forced to oppose the passage of this Bill.

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ.— സർ, ഈ അമൻറുമെൻറിനെ ഞാൻ ബലമായി എതിർക്കുന്നു. ഈ ബിൽ നിയമമെമ്പർ പറഞ്ഞമാതിരി അത്ര Innocent ആണെന്ന് തോന്നുന്നില്ല. ശാരദാബിൽ നമ്മുടെ രാജ്യത്തിൽ ഇല്ലാത്തതുകൊണ്ട് അന്യരാജ്യങ്ങളിൽനിന്ന് ആളുകൾ ഇവിടെ വന്ന കുട്ടികളെ കല്ല്യാണം കഴിപ്പിച്ചുകൊണ്ട് പോകുന്നതുപോലെ ഈ നിയമം അവിടെ ഇല്ല, അതുകൊണ്ട് നമ്മൾക്ക് അവിടെ പോകാം എന്നു വിചാരിച്ച് അവിടെനിന്ന് ആളുകൾ ഇവിടെ വന്ന് കുറ്റം ചെയ്യാലോ എന്ന കരുതിയാണോ ഈ നിയമം പാസ്സാക്കാനുദ്ദേശിക്കുന്നത്? ഈ നിയമം വളരെ ഉപകാരമാണെന്നുള്ളതിന് ഒരുദാഹരണം പറയാം. പത്തുനിയമപ്രകാരം ആണെങ്കിൽ എന്തെങ്കിലും കടലാസ്സിൽ എഴുതിയാലെ ശിക്ഷിക്കുകയുള്ളൂ. എന്നാൽ ഇതു അങ്ങിനെയല്ല. വീട്ടിൽ ഇരുന്ന് പറഞ്ഞാലും ശിക്ഷിക്കും. ഇതിന് ഉദാഹരണമായി ഒരു കഥ പറയാം.

ഒരു വീട്ടിൽ ഒരു കുഞ്ഞുനായരും ഭാര്യ കുഞ്ഞിയമ്മയും രാത്രിയിൽ ഊണുകഴിച്ച് കട്ടിലിൽ ഇരുന്ന് വർത്തമാനം പറഞ്ഞുകൊണ്ടിരിക്കുന്നു. "വേലക്കാരൻ വേലുക്കുട്ടി ഒരുവർഷത്തെ പാട്ടംതരാൻ ഉണ്ട്. അതുകൊണ്ട് അവൻറെ ശമ്പളത്തിൽ രണ്ടുരൂപാ കൊടുക്കാനുള്ളതു പിടിച്ചെടുക്കുകയും അവനെ നാളെ തെങ്ങുകയറാൻ സമ്മതിക്കാതിരിക്കുകയും വേണം," എന്ന് കുഞ്ഞിഅമ്മ പറയുന്നു. വേലുക്കുട്ടി ഇതെല്ലാം കേട്ട

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പുറത്തുനിന്നിരുന്നു. അവൻ കാലത്തെ പോലീസ് സ്റ്റേഷനിൽ ചെന്നുപറഞ്ഞു. പോലീസുകാർ വന്ന് കുഞ്ഞുനായരേയും കുഞ്ഞിയമ്മയേയും പിടിക്കുന്നു. വേലുക്കുട്ടി സാക്ഷിയുമായി ഒന്നും അറിയാതെ അവർ ശിക്ഷ ഏല്ക്കുന്നു—ഇതൊരു കാൺസ്പിറസിയാണെന്നു എനിക്കു തോന്നുന്നില്ല. അതുകൊണ്ട് ഞാനിതു വോട്ടുചെയ്യുന്നില്ല. നിങ്ങൾക്കു അങ്ങിനെയല്ലെന്നു തോന്നുന്നുണ്ടെങ്കിൽ നിങ്ങൾ വോട്ടുചെയ്തുകൊള്ളുവിൻ.

Mr. Thomas Manjuran.—I am sorry Hon'ble Members of even the legal profession appear to have rather misunderstood the scope of this Bill. One Hon'ble Member was saying that we have got the provisions of section 129 of the Penal Code which deals with assemblies of five persons. That Hon'ble Member seems to think that in view of that section of the Code the provisions of this bill are unnecessary. Unfortunately that does not appear to be the case. The provisions contained in section 129 really deal with unlawful assembly. The offence defined in section 129 has nothing to do with conspiracy at all. What is made an offence there is an assembly, an assembly with a certain intention. However much the intention may be in the absence of that assembly there is no offence. It has nothing to do with the matter now in hand. Now, the Hon'ble Member said that conspiracy to wage war against the State was made an offence. It is no doubt made an offence under section 117. Does the Hon'ble Member expect the Government to stand by and see that conspiracy to wage war against individuals is adumberated and prosecuted without raising a little finger to check it?

Dr. A. R. Menon.—Was there a case?

Mr. Thomas Manjuran.—Hon'ble Members may very well ask, "when the Cochin Penal Code was passed as law in the year 1059 whether all the offences dealt with in it had been committed in Cochin".

Dr. A. R. Menon.—Is it a progressive legislation?

Mr. Thomas Manjuran.—It is a most progressive legislation.

Mr. P. Govinda Menon.—Fine ideas of progress!

Mr. Thomas Manjuran.—Today one of the several bills that will have to be considered by the House is the Trade Unions Bill. I think there was an outcry for passing that bill in this Council. One of its sections bears directly upon the law of conspiracy. Let us not forget facts. I am referring to section 17 of the Bill.

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"No officer or member of a registered Trade Union shall be liable to punishment under sub section II of section 115 (b) of the Cochin Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15 unless the agreement is an agreement to commit an offence".

Now having given rather extended privileges to the Trade Union Members some sort of check had to be introduced in the interest of the employers and the employees themselves.

Mr. A. Sankara Menon.—Then why not have it incorporated in that Regulation itself?

Mr. Thomas Manjuran.—The objection is to the place where exactly this should be incorporated. The Penal Code is the most suitable place because it covers all cases.

I started by saying that it is not intended for the Trade Unionists alone and that it covers the whole society. I am only submitting that when I stated that progressive administration required the introduction of measures like this I was not exaggerating at all. The Trade Union Bill, as Hon'ble Members will readily admit, is a piece of progressive legislation. It presupposes a provision like this in the Penal Code so that the freedom or the right of assembly or the right of united action of Trade Union, may not be abused by unlawful conspiracies. Hon'ble Members, do you want to hold up the Trade Union Bill by denying the Government the passage of this Bill? It is obvious that in the absence of provisions contained in clause 17 of that Bill it may be dangerous to promulgate it at all.

Mr. P. Govinda Menon.—Is it not a threat, Sir?

Mr. Thomas Manjuran—I cannot help it. I am only stating facts. I am only placing matters as they strike the Government. If Hon'ble Members are taking it as a threat I cannot help it.

Mr. K. Ayyappan.—Why not deal with the Trade Union Bill later on?

Mr. Thomas Manjuran.—I am defending this Bill and adducing reasons for introducing this Bill now.

Mr. T. K. Nayar.—Is it a condition precedent that this Bill should be passed for passing the Trade Union Bill? If there is real necessity for this after the Trade Union Bill is passed then you can introduce this measure. Then we can understand the force of your arguments.

Mr. Thomas Manjuran.—I submitted that in view of the progressive nature of the legislation proposed by this Government it was highly necessary that a provision like this should be

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introduced in the Penal Code. These objections given against the Bill, I respectfully submit, do not appeal to me: One Hon'ble Member said that Indians were perjurers and that it would be absolutely unsafe if this provision of law is introduced in the Statute Book. If you can hang a man on such a testimony, or if you can send a man to penal servitude for life would it be a great hazard to use such testimony in a case of conspiracy? One can exaggerate things. Again another Hon'ble Member said that conditions in England are entirely different from ours and that England is a democratic country and that conspiracy law is a dead letter there. But there is a big fallacy there. What is the wonderful difference between India and England and Cochin in this matter? (Laughter).

Mr. P. Govinda Menon.—Is there no difference between England and Cochin and India?

Mr. Thomas Manjuran.—If the Hon'ble Member had heard the last words, I said, 'in this matter', he would not have asked this. In the administration of the law of conspiracy there could not be any difference. The difference is against England.

Mr. P. Govinda Menon.—Is there any Statute in England?

Mr. Thomas Manjuran.—Statutes are also available in the matter. Is the Hon'ble Member questioning the law in England?

Mr. P. Govinda Menon—There is no Statute in England. That is only a commentary.

Mr. Thomas Manjuran.—I am surprised to see my lawyer friends making such statements. Custom is as good as law.

Mr. P. Govinda Menon.—That shows there is difference between Cochin and England. That was my point.

Mr. Thomas Manjuran.—This opposition is more fancied than real. There is no ground for such an opposition. If the Hon'ble Members ponder over this matter they will realise that this is the last of the laws that could be abused. I may also explain the reason why this measure was introduced at this state. In view of the useful provisions contained in the Trade Union Bill this Bill has become quite essential. Well, I put it to the Hon'ble Members. They should consider the objects and reasons for which this bill is introduced. If they throw

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out this Bill then that will be making the position of the Government awkward with regard to the other Bill. I leave it to you.

Mr. President.—The question is that the Cochin Criminal Law Amendment Bill as reported by the Select Committee be taken into consideration.

Motion put and negatived.

Mr. E. Ikkanda Warriar.—A poll, Sir.

POLL.

Ayes.	Noes.
1. Mr. V. K. Aravindaksha Menon	1. Mrs. Meenakshy N. Menon
2. Rama Varmha Tampuran	2. Mr. Shabdai S. Koder
3. Mr. K. Krishna Warriar	3. Mr. C. S. Viswanatha Ayyar
4. Mr. K. Narayana Menon	4. Mr. George Parakkal
5. Mr. M. V. Cherian	5. Mr. C. R. Iyyunni
6. Mr. T. Narayana Menon	6. Mr. P. Kumaran Ezhuthassan
7. Dr. E. S. R. Menon	7. Mr. K. Ayyappan
8. Mr. P. Neelakanta Menon	8. Mr. T. K. Nayar
9. Rao Sahib Mr. I. N. Menon	9. Mr. A. Eachara Menon
10. Mr. Thomas Manjuran	10. Mr. V. K. Krishnankutty
11. Dr. D. Raghavendra Rao	11. Mr. K. M. Kunhi Moideen
12. Mr. P. V. Subramania Ayyar	12. Mr. P. Govinda Menon
13. Mr. K. Achyuta Menon	13. Mr K. M. Ibrahim
14. Mr. T. S. Narayana Ayyar	14. Mr. K. S. Panicker
	15. Mr. K. Kunhirama Menon
	16. Mr. V. K. Kutty
	17. Mr. K. Ashtamoorthi Nambudiripad
	18. Mr. E Ikkanda Warriar
	19. Mr. T. A. Ramachandra Ayyar
	20. Mr. M. Sivarama Menon
	21. Mr. P. Raman Menon
	22. Mr. K. S. Manickem
	23. Mr. P. J. Alexander
	24. Mr. A. V. Moothedan
	25. Dr. A. R. Menon
	26. Mr. Popatlal Goverdhan Lalan
	27. Mr. P. C. Varkey
	28. Mr. M. A. Sankunni
	29. Mr. V. S. Krishnan Vaidyar
	30. Mr. A Sankara Menon

Neutral.

1. Miss. G. M. De Souza.

Mr. President.—14 for and 30 against. The motion is therefore lost.

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Mr. Thomas Manjuran.—Now with regard to the Cochin Trade Union Bill, Sir, that Bill contains a reference in section 17 to criminal conspiracy and in the form it has been presented it is obviously not possible to move the adoption of the Bill. Some alteration has to be made. I would, therefore submit that the Bill may be taken up tomorrow. I may be allowed to make the motion tomorrow.

Mr. President.—Yes.

The Cochin Village Panchayat Regulation Amendment Bill.

Mr. Thomas Manjuran.—Sir, I rise to move that the Cochin Village Panchayat Regulation Amendment Bill as reported by the Select Committee be taken into consideration.

Mr. M. P. Cherian.—I second it.

Mr. President.—The question is that the Village Panchayat Regulation Amendment Bill as reported by the Select Committee be taken up for consideration.

Motion put and carried.

Mr. President.—The question is that clauses 2 to 5 do stand part of the Bill.

Insertion of a new section.

2. After section 7 of the Cochin Village Panchayat Regulation, V of 1089, as amended up-to-date, the following section shall be inserted:—

Term of office of members of Panchayats.

"7 A. (1) The term of office of the members of the existing Panchayats shall save as otherwise expressly provided, begin and expire at noon on the first day of the months shown in column 3 of the Schedule annexed and of members of Panchayats that may be created hereafter on such dates as may be fixed by the Government by a notification in the Government Gazette.

(2) Vacancies arising from efflux of time in the office of an elected member of the existing Panchayats shall be filled up at ordinary elections which shall be fixed by the Director of Public Health and Panchayats or by any officer nominated by him to take place on such days in the months, shown in column 4 of the Schedule annexed, next preceding the vacancies as he thinks fit and in cases of Panchayats that may be created hereafter the elections to fill up such vacancies shall take place on such day or days as may be fixed by the Director of Public Health and Panchayats or the officer nominated by him, provided that the Director of Public Health and Panchayats shall not nominate under this section a person below the rank of a nchayat Inspector or Tahsildar.

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